

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

Cogent Capital Financial LLC and Cogent Capital Investments LLC, :  
Plaintiffs, : **ECF CASE**  
- against - : No. 07 Civ. 2701 (JSR)  
Innofone.com, Incorporated, :  
Defendant. :  
----- X

Innofone.com, Incorporated, :  
Plaintiff, :  
- against - : **ECF CASE**  
Cogent Capital Financial LLC, Cogent Capital Investments LLC, Cogent Capital Group LLC, Gregory L. Kofford, Mark W. Holden, and Investors : No. 07 Civ. 3966 (JSR)  
Bank & Trust Company, :  
Defendants. : **PLAINTIFF INNOFONE.COM,  
INCORPORATED'S NOTICE OF  
MOTION FOR SUMMARY  
JUDGMENT**  
----- X

TO: JOEL C. HAIMS, ESQ.  
MORRISON & FOERSTER LLP  
1290 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10104

COUNSEL FOR DEFENDANTS  
COGENT CAPITAL FINANCIAL LLC  
COGENT CAPITAL INVESTMENTS LLC  
COGENT CAPITAL GROUP LLC  
GREGORY L. KOFFORD  
MARK W. HOLDEN

PAULA M. BAGGER, ESQ.  
COOKE CLANCY & GRUENTHAL LLP  
265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110

COUNSEL FOR DEFENDANT  
INVESTORS BANK & TRUST COMPANY

PLEASE TAKE NOTICE that on June 28, 2007, at 4:30 p.m. or as soon thereafter as counsel may be heard, in the courtroom of the Honorable Jed S. Rakoff, Room 14-B of the United States Courthouse, 500 Pearl Street, New York, New York 10007, plaintiff Innofone.com, Incorporated (“Innofone”) will move, in *Innofone.com, Inc. v. Cogent Capital Financial LLC*, No. 07 Civ. 3966 (JSR) (S.D.N.Y. transferred May 22, 2007), pursuant to Federal Rule of Civil Procedure 56, for summary judgment in its favor on the Second and Third Claims for Relief, and that portion of the Fifth Claim for Relief which seeks declaratory relief regarding impossibility and the failure of consideration.

PLEASE TAKE FURTHER NOTICE THAT pursuant to a directive of this Court, issued during a conference convened on May 29, 2007, all opposition papers must be filed no later than June 18, 2007, and all reply papers must be filed no later than June 22, 2007.

This motion is based on this Notice of Motion, the statement of material undisputed facts mandated by Local Civil Rule 56.1, the memorandum of law in support of the motion, the declarations of Alex Lightman and Arthur S. Marcus in support of the motion, the exhibits attached to the Lightman Declaration and all prior proceedings in this action.

PLEASE TAKE FURTHER NOTICE THAT pursuant to a directive of this Court, issued at a May 31, 2007 telephonic conference attended by counsel for Innofone and Cogent, on June 4, 2007, Innofone will file its moving papers electronically, with the exception of all those exhibits attached to the Declaration of Alex Lightman whose file size, when converted into PDF format, exceed the maximum file size for electronic filings. Pursuant to the Court’s directive, those will be for filing in hard copy format on June 5, 2007.

Dated: San Francisco, California  
June 4, 2007

Of Counsel: JONES DAY

Gidon M. Caine (GC 9923)  
JONES DAY  
1755 Embarcadero Road  
Palo Alto, California 94303  
Telephone: (650) 739-3939  
Facsimile: (650) 739-3900

Jessica L. Repa  
Joanna Rosen  
JONES DAY  
555 California Avenue  
Suite 2600  
San Francisco, California 94104  
Telephone: (415) 626-3939  
Facsimile: (415) 875-5700

By: /s/  
Roderick A. McLeod (RM 4936)

JONES DAY  
555 California Avenue  
Suite 2600  
San Francisco, California 94104  
Telephone: (415) 626-3939  
Facsimile: (415) 875-5700

Attorneys for Plaintiff  
Innofone.com, Incorporated

SFI-565482v1